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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/072,303 | 02/07/2002 | Craig C. Andrews | LYNN/0152 | 9695 |
| 24945 | 7590 | 11/03/2003 | EXAMINER | |
| STREETS & STEELE 13831 NORTHWEST FREEWAY SUITE 355 HOUSTON, TX 77040 | | | ROSSI, JESSICA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1733 | |

DATE MAILED: 11/03/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

CLO-7

Office Action Summary

Application No.

10/072,303

Applicant(s)

ANDREWS ET AL.

Examiner

Jessica L. Rossi

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-48 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

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DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-26, 40-43, and 45-48, drawn to a method of assembling an electrochemical cell, classified in class 156, subclass 285.
- II. Claims 27-39 and 44, drawn to a subassembly of electrochemical cell components, classified in class 429, subclass 149.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the subassembly can be made by another and materially different process where the components are compression bonded without the use of vacuum (see Admitted Prior Art, p. 3, lines 4-20).
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
- 4. This application contains claims directed to the following patentably distinct species of the claimed invention:

Group I

*Note: Upon election of Group I, Applicants must make a further species election.

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Species A (appears to be claims 1-26, 40-43), drawn to assembling the components by placing the same in a pliable bag and drawing a vacuum in the bag as disclosed on p. 8, lines 3-8 and 24-29.

Species B (appears to be claims 45-48), drawn to assembling the components by placing the same in a pliable bag, placing the bag in a vacuum chamber, and drawing a vacuum in the chamber as disclosed on p. 8, lines 9-17.

*Note: Upon election of Species A, Applicants must make a further subspecies election (must pick one sub-subspecies within each subspecies).

Subspecies Ai

Sub-subspecies Aix (appears to be claims 5-7), drawn to distributing the bonding agent by adding the same into an upward-facing open channel in the surface of the first component, creating a closed channel by aligning the first component with the second component, and inverting the components so the bonding agent flows by means of capillary action as disclosed on p. 11, line 25 – p. 12, line 2.

Sub-subspecies Aiy (appears to be claims 8-9 and 11-13), drawn to distributing the bonding agent by adding the same into a closed channel through one or more fill ports as disclosed on p. 12, lines 3-13.

Subspecies Aii

Sub-subspecies Aiix (appears to be claims 14, 43), drawn to maintaining alignment of the components using a bonding agent as disclosed on p. 10, lines 13-16.

Sub-subspecies Aiiy (appears to be claims 41-42), drawn to maintaining alignment of the components by an interlocking feature as disclosed on p. 10, lines 16-18.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. *Note rejoinder of Groups and Species will be considered upon the indication of allowable subject matter, depending on the basis thereof.*

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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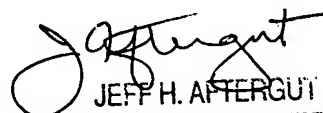
application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **703-305-5419** (571-272-1223 come mid December) and can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D. Crispino can be reached on 703-308-3853. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Jessica L. Rossi
Patent Examiner
Art Unit 1733



JEFF H. AFTERGUT
PRIMARY EXAMINER
GROUP 1300

| | | | |
|---|------------------|----------------|--|
| Examiner-Initiated Interview Summary | Application N . | Applicant(s) | |
| | 10/072,303 | ANDREWS ET AL. | |
| | Examin r | Art Unit | |
| | Jessica L. Rossi | 1733 | |

All Participants:
Status of Application: _____

(1) Jessica L. Rossi.

(3) _____.

(2) Mr. Campigotto.

(4) _____.

Date of Interview: 23 October 2003
Time: _____

Type of Interview:

- ☒ Telephonic
☐ Video Conference
☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☐ No

If Yes, provide a brief description:

Part I.

Rejection(s) discussed:

Claims discussed:

Prior art documents discussed:

Part II.
SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:
Called Applicants to inform them that restriction being mailed out due to its complexity. Applicants did not object to this.
Part III.

- ☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.
☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

(Examiner/SPE Signature)

(Applicant/Applicant's Representative Signature – if appropriate)